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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Decided on: 20th May, 2015

+ **MAC.APP. 496/2013**

JAGMOHAN MALHOTRA

..... Appellant

Through: Mr.O.P. Mannie, Advocate with
Mr. Manish Maini, Advocate

versus

ADESH KUMAR & ORS.

..... Respondents

Through: Mr. Sameer Nandwani,
Advocate for Respondent no.3.

**CORAM:
HON'BLE MR. JUSTICE G.P.MITTAL**

J U D G M E N T

G. P. MITTAL, J. (ORAL)

1. The appeal is directed against the judgment dated 28.01.2013 passed by the Motor Accident Claims Tribunal (the Claims Tribunal) whereby a compensation of Rs.89,902/- was awarded in favour of the Appellant for having suffered grievous injuries in a motor vehicular accident which occurred on 18.09.2010.

2. It is urged by the learned counsel for the Appellant that the Appellant was not compensated for the loss of 64 days leave which he had to take to recover from the injuries. It is also urged that the compensation awarded towards pain and suffering is on the lower side.
3. On the other hand, the learned counsel for Respondent no.3 submits that the compensation awarded is just and reasonable. It is also submitted that since the Appellant did not suffer any financial loss on account of 64 days leave, he is not entitled to any compensation for loss of leave.
4. On perusal of the Trial Court record, it is clear that the Appellant suffered head injury, fracture right temporal and contusion left temporal lobe and remained admitted in Max Hospital from 18.09.2010 to 22.09.2010. He had to take rest for about two months to enable him to join his duties. As far as loss of leave is concerned, the issue is covered by the judgment of this Court in *Ramveer Singh v. Rajesh Kumar & Ors., 2014 SCJ 1090*, wherein it was held that a victim of a motor vehicle accident cannot be made to suffer loss of his full pay leave or

the medical leave for the benefit of the tortfeasor. The Appellant was getting a total salary of Rs.39,054/- including a sum of Rs.2,160/- towards Transport Allowance(TA). Thus, the Appellant is granted a sum of Rs.74,000/- towards loss of two months leave. Considering the nature of injury, the site of the injury, period of confinement in the Hospital and the fact that the Appellant had to take rest for 64 days, award of compensation of Rs.20,000/- towards mental pain and agony by the Claims Tribunal seems to be on the lower side. The same is thus, raised to Rs.40,000/-. The overall compensation thus, comes to Rs.1,83,902/-.

5. The compensation is consequently, enhanced by Rs.94,000/- which shall carry interest @ 7.5% per annum from the date of filing of the claim petition till its payment.
6. Respondent no.3 Insurance Company is directed to deposit the enhanced compensation with UCO Bank, Delhi High Court Branch, New Delhi within six weeks and the same shall be released in favour of the Appellant on deposit.

7. The appeal is allowed in above terms.
8. Pending applications, if any, also stand disposed of.

(G.P. MITTAL)
JUDGE

MAY 20, 2015
pst